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7 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
8 OAKLAND DIVISION
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10 UNITED STATES OF AMERICA,

11 Plaintiff,

CR 04-40148 DLJ

12 v.

STIPULATION AND ORDER TO
CONTINUE STATUS HEARING

13 JOSE CASTELLANOS,

14 Defendant.
15 _____/

16 At the request of the parties, the Court enters this order
17 (1) continuing the hearing presently set for May 8, 2009, at
18 11:00 a.m. to July 10, 2009 at 9:00 a.m., for change of plea;
19 and (2) excluding time under the Speedy Trial Act from May 8,
20 2009, based on the following:

21 1. Since the last appearance before this Court on
22 December 12, 2008, the parties have independently been
23 reconstructing a financial analysis of documents relevant to
24 material provisions of the contemplated plea agreement. This
25 process has been complicated by the age of the relevant
26 documents and financial records, and inability to retrieve said
27 documents through the course of voluntary process.

28 2. On March 16, 2009, the government provided further

1 financial records and discovery pertaining to Mr. Castellanos to
2 the defense. This material is being reviewed and analyzed by
3 the defense team (including sentencing expert Dayle Carlson) and
4 with the defendant.

5 3. As indicated to this Court in the prior stipulation,
6 the financial aspect of the case is essentially the only
7 remaining component of a plea agreement that the parties have
8 not yet reached mutual assent. Both parties have made efforts
9 to locate (within all of the seized documents) copies of
10 checks/checkstubs that defense counsel maintains in good faith
11 will be materially relevant to this last substantive agreement.

12 4. The government has been diligent in producing the
13 materials described in paragraph 2, *supra*, and defense counsel
14 are trying to assist in obtaining these dated records,
15 notwithstanding information and belief that the financial
16 institution does not maintain the relevant customer records
17 beyond five to seven years.

18 5. As before, counsel are generally in agreement upon
19 the offense of conviction and have tentatively agreed upon the
20 base offense level for purposes of Guidelines calculations.

21 6. A draft plea agreement is contemplated immediately
22 upon resolution of the financial component of this case, which
23 is the only issue which remains unresolved.

24 7. The parties are mindful of the relative age of the
25 case; sincerely appreciate the Court's patience; and are eager
26 to see this matter go forward to final resolution.

27 8. Some of the materials the defense has been trying to
28 obtain still however remains outstanding and cannot be obtained

1 through voluntary process. Therefore the issuance of Rule 17
 2 subpoenas to third parties, such as financial institutions, will
 3 be requested of this Court to help facilitate resolution of
 4 these outstanding financial issues.

5 9. Accordingly, the parties mutually request that the May
 6 8, 2009, date be vacated and that the matter be continued to
 7 July 10, 2009 at 9:00 a.m. for change of plea.

8 10. The parties stipulate that the time is excludable from
 9 the time limitations of the Speedy Trial Act because the
 10 interests of justice are served by granting a continuance. This
 11 continuance, requested by the parties, will permit continuity of
 12 counsel, and allow the reasonable time necessary for effective
 13 preparation, taking into account the exercise of due diligence.
 14 18 U.S.C. sections 3161(h)(8)(A) and (B)(iv).

15 THE PARTIES THEREFORE STIPULATE that the hearing for change
 16 of plea be continued from May 8, 2009 to July 10, 2009, with
 17 time continuing to be excluded as specified above, such that the
 18 ends of justice served by granting such a continuance outweigh
 19 the best interests of the public and the defendant in a speedy
 20 trial.

21 Dated: April 28, 2009

23 /s/ SHARI L. WHITE
 24 SHARI L. WHITE
 Attorney for JOSE CASTELLANOS

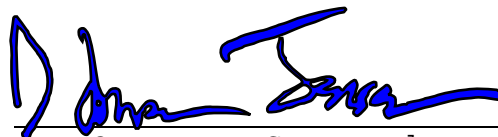
/s/ TIMOTHY J. LUCEY
 TIMOTHY J. LUCEY
 Assistant U.S. Attorney

26 **ORDER**

27 Good cause appearing, and based upon the stipulation of the
 28 parties,

1 **IT IS HEREBY ORDERED** that the hearing in this matter is
2 continued to July 10, 2009, at the hour of 9:00 a.m. and that
3 time is excluded as stipulated.

4 Dated: April 30, 2009

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7 D. LOWELL JENSEN, Judge
8 United States District Court
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